

RECEIVED
SDNY DOCKET UNIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2018 AUG 13 AM 9:16

Malcolm Baptiste, (DIN 96A4708)

18CV7274
No.

Write the full name of each plaintiff.

(To be filled out by Clerk's Office)

-against-

Thomas Griffin, Superintendent of
Green Haven Correctional Facility;
Sergeant Cocuzza, Sergeant;
Michael T. Nagy, #11093, Correctional Officer

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

COMPLAINT

(Prisoner)

Do you want a jury trial?

☒ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Malcolm R. Baptiste
First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

96A4708

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Green Haven Correctional Facility

Current Place of Detention

594 Route 216

Institutional Address

Dutchess County, Stormville New York 12582
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

Thomas Griffin
First Name Last Name Shield #
Acting Deputy Commissioner
Current Job Title (or other identifying information)
1320 Washington Ave.
Current Work Address
Albany NY
County, City State Zip Code

Defendant 2:

(Unknown) Cocuzza
First Name Last Name Shield #
Lieutenant
Current Job Title (or other identifying information)
(Unknown)
Current Work Address
NY
County, City State Zip Code

Defendant 3:

Michael Nagy 11093
First Name Last Name Shield #
Correctional Officer
Current Job Title (or other identifying information)
594 Route 216
Current Work Address
Dutchess County, Stormville NY 12582
County, City State Zip Code

Defendant 4:

First Name Last Name Shield #
Current Job Title (or other identifying information)
Current Work Address
County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence:

Green Haven Correctional Facility's West Mess Hall and C & D yard.

Date(s) of occurrence:

August 3, 2015

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

See Attached

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

See Attached

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

See Attached

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

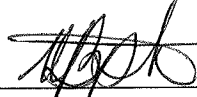
By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>July 30, 2018</u>		<u></u>
Dated		Plaintiff's Signature
<u>Malcolm</u>	<u>R.</u>	<u>Baptiste</u>
First Name	Middle Initial	Last Name
<u>594 Route 216</u>		
Prison Address		
<u>Dutchess County, Stormville</u>	<u>New York</u>	<u>12582</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: July 30, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED
SDNY DOCKET UNIT
2018 AUG 13 AM 9:17

-----X
MALCOLM BAPTISTE,

Plaintiff,

-v-

Case No. _____

Hon. _____

THOMAS GRIFFIN, Superintendent of
Green Haven Correctional Facility;
Sergeant Cocuzza, Sergeant;
MICAEL T. Nagy, #11093, Correctional
Officer,

Defendants.

COMPLAINT UNDER
THE CIVIL RIGHTS
ACT, 42 U.S.C. §1983

Jury Trial
Requested

-----X
Introduction

This is a civil rights action filed by Malcolm Baptiste, a state prisoner, for damages and injunctive relief under 42 U.S.C. §1983, alleging excessive use of force and deliberate indifference in violation of the Eighth Amendment of the United States Constitution.

Jurisdiction

1. The Court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §§1331(1) and 1343.

Parties

2. The plaintiff is Malcolm Baptiste, DIN 96A4708, is and was, at all times relevant hereto, a prisoner in the custody of the State of New York Department of Corrections and Community Supervision ("DOCCS"). At all times relevant to the events hereto, he was incarcerated at the Green Haven Correctional Facility, which is located in Stormville, New

York.

3. Defendant No. 1 is Thomas Griffin: he was the Superintendent of Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

4. Defendant No. 2 is Sergeant Cocuzza: he was a Sergeant at the Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

5. Defendant No. 3 is Michael T. Nagy: he is a Correctional Officer at the Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

Statement of Claim

6. The events that give rise to the within claims occurred in the Green Haven Correctional Facility. The events took place in the Green Haven West Mess Hall and C & D yard. The approximate date and time of the events are as follows: August 3, 2015, during the morning breakfast "chow" run.

Facts

7. On or about August 3, 2015, Baptiste ("Plaintiff"), along with approximately fifty (50) other inmates were escorted by two correctional officers to Green Haven's West Mess Hall for breakfast.

8. Plaintiff entered the mess hall, was served a tray of food from counter number "one" before sitting at a table. At no time did plaintiff pose any threat to the safety or security of the facility, or anyone in it.

9. While plaintiff ate his breakfast a two (2) man fight began in the West Mess Hall. Within moments several prison guards responded to the situation and separated the two prisoners and had the on the floor face-down.

10. Without any resistance both individuals were handcuffed behind their respective backs while numerous guards stood in the immediate area.

11. Prison guard Nagy occupied the Chemical Agent Booth in the West Mess Hall on the morning of August 3, 2015.

12. At about the time one of the restrained men was being escorted out of the mess hall prison guard Nagy released the w of chemical agents closest to the serving line, without any provocation, subjecting close to four hundred (400) people to an array of respiratory reactions.

13. The guards with the other restrained prisoner hurriedly brought him to his feet and escorted him out of the mess hall.

14. There was no serious incident, nor was there threat to human life, that would have justified the release of the chemical agent.

15. The fog from the chemical agent drifted around the mess hall. Being exposed to the chemical agent resulted in the plaintiff coughing uncontrollably, his eyes tearing profusely, and vomiting at the table.

16. Groups of men on the opposite side of the mess hall were escorted out by guards posted on that side of the mess

hall.

16. Plaintiff was exposed to more chemical agents when yet another round was unleashed approximately a row of tables away from where plaintiff was seated. Prior to and at the time of that release, no individual's life or safety was in danger.

17. Plaintiff's lungs and eyes began to burn as a result of the fog from the agent.

18. Subsequent to the second round of canisters being dropped, several prison guard panicked and ran out of the mess hall, leaving their post vacant, and less prison personnel in the West Mess Hall with plaintiff and all other remaining prisoners.

19. As a result of the panicking of the guards and abandoning of their post, several prisoners rose from their seats and headed for the exit, some with the collars of their shirts covering their mouths and noses.

20. Plaintiff used the collar of his T-shirt to cover his mouth and nose, hoping it would help, but to no avail. Plaintiff's eyes, nose, throat and lungs all burned, while his nose continuously drained mucus.

21. With each passing moment the fog grew thicker and visibility became poor, seeing other people, tables and chairs was difficult.

22. Due to the lack of prison guards at their assigned post, and the failure of those present to direct the

prisoners, more prisoners began to get up from their seats and leave the mess hall.

23. Due to the reaction plaintiff was experiencing, along with the inaction of the officials present, plaintiff rose from his seat and proceeded out of the mess hall.

24. As plaintiff reached the vicinity of the exit, yet another row of chemical agents were unleashed in the area of the entrance/exit.

25. Some of the chemical agent released in that third round struck plaintiff on the head, neck and back as he exited the mess hall.

26. After exiting the mess hall plaintiff tripped over what he believed to be someone's limb, and fell to the ground striking his right knee, wrist and elbow. Before being able to get back to his feet plaintiff suffered from being trampled on by other people leaving the mess hall.

27. Upon getting to his feet plaintiff began to walk away from the mess hall. No staff was present in the immediate area at the time. However, plaintiff saw that all control gates were locked with the exception of the one directly ahead of him. Beyond that the door leading to C & D yard was open, making that the only place to go.

28. Due to the failure of prison officials to maintain order and give direction, plaintiff and others exited into the yard. The morning of August 3, 2015, was a hot sunny day. As a result of being under the sun, the chemical agent on

plaintiff's skin began to burn uncontrollably.

29. After entering the yard plaintiff was instructed by a guard to walk to the right all the way to D-Block wall. Once plaintiff reached said wall he was told to "file in line with the rest of your buddies, and get your hands high and flat [on the wall], take three steps back and stay there or you won't make it out of this yard in one piece."

30. Standing in said position left plaintiff's feet approximately five (5) feet from the wall, with his heels barely touching the ground.

31. The longer plaintiff stood under the sun the more his head, neck, eyes, lungs and back burned.

32. Plaintiff alerted the guards in the vicinity of the burning sensations he was experiencing and that his arms and shoulders were hurting, as his arms visibly shook. A guard replied that plaintiff "wasn't alone."

33. About 15 minutes later plaintiff feared he was going to fall from standing in said manner and explained this, and the fact that he needed to go to the bathroom to the guards. The reply he was met with was "if [he didn't] keep his pie-hole (mouth) shut falling and going to the bathroom will be the least of your worries."

34. Plaintiff was forced to stay in the sun with his hands high and feet far behind him for approximately one (1) hour, before being told he could move.

35. When instructed he could take his hands off the wall,

and turn around, plaintiff again asked if he could use the bathroom. One of the guards responded "keep your mouth shut and follow orders."

36. The plaintiff was told to walk in single file to the middle of the yard. Upon arriving there plaintiff and the others on the line were told to wait there.

37. After standing in the middle of the yard under the glaring sun for approximately 10 minutes, plaintiff was told to move forward to B & C corridor wall, which was on the opposite side of the yard from which he came.

38. Once reaching that area plaintiff was instructed to face the wall, place his hands and flat on the wall until instructed otherwise.

39. A few minutes later a guard working her way down the line of men told plaintiff to slowly take off his right shoe and sock with his left hand and then place his hand back on the wall. Plaintiff was then instructed to remove his other shoe and sock with his opposite hand and then place it back on the wall. Plaintiff was left standing on the pavement bare-foot.

40. Subsequent to coming out of his footwear plaintiff was instructed to remove his belt and pants, and then his shirt and undershirt. Once his garments were removed plaintiff was instructed to place his hands back on the wall and forced

to stand in that position, in only his under shorts.

41. Plaintiff was forced to remain in said position for approximately 10 minutes . He was then told to pick-up his shoes and turn to his left.

42. Plaintiff was told to walk single file to the shower area.

43. Plaintiff was told to give his shoes to a female officer who was just outside of the shower area, before being told to get under the water. Plaintiff was allowed to rinse off for approximately 2 minutes without any cleansing solution before being forced to exit the shower, without a towel.

44. Upon exiting the shower plaintiff was given back his shoes. Plaintiff was forced to walk across the yard, which had both men and women observing his movements, in his now wet transparent underwear and shoes, to D-Block corridor wall, which was in the complete opposite direction.

45. Upon arriving at the designated place, plaintiff was told where to "file in" and place his hands high and flat on the wall.

46. Approximately 5 minutes later plaintiff was told to walk up to the wall without removing his hands, until his toes touched the wall.

47. Upon doing so plaintiff was told to remove his hands

and turn to his left and walk to the yard door. Upon reaching the yard door plaintiff was further instructed to walk through and into the A & B yard.

48. When plaintiff reached the A & B yard he was told to return to his housing unit.

49. Upon entering the housing unit plaintiff was instructed to proceed to his cell and lock on.

50. Sometime later a nurse walked the company with a prison guard. Once the nurse reached the vicinity of the cell plaintiff was in, plaintiff explained that he tripped fell and was trampled over upon leaving the mess hall. As a result plaintiff was experiencing pain in his right knee, wrist and elbow arm, and back.

51. The nurse told plaintiff he look 'okay,' continued walking, and said "go to sick call."

52. During the evening of August 3, 2015, upon being allowed to shower, plaintiff's eyes began to burn again, as he stood under the water. The burning sensation lasted about 3-5 minutes.

53. Although plaintiff signed up for sick call that night, he was not provided the opportunity to be seen by any medical personnel. He was simply told to sign up again.

54. Plaintiff reapplied for sick call and was seen by a nurse on August 5, 2015. At that time plaintiff showed the nurse the injuries he suffered, including a swollen wrist, knees, ankle, and elbow. As a result, plaintiff was given

Ibuprofen and instructed to go back to his cell.

55. Plaintiff asked for photographs to be taken of the injuries. The nurse replied that there was no film. Plaintiff has subsequently gone to sick call and the clinic for his physical injuries several times.

56. Plaintiff has also had a case file opened with the mental health department at Green Haven Correctional Facility as a result of the mental trauma suffered in the mess hall and C & D yard. Plaintiff was seen by a therapist for about one (1) year.

57. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff suffered the following injuries: burning sensation on the head neck, and back, and in the lungs and nose; (2) facial burning; (3) shortness of breath; (4) excruciating pain in both eyes from all from exposure to the chemical agent; and (5) swelling of the right knee, wrist and arm, and of both ankles after falling and being trampled on after leaving the mess hall.

58. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff has been experiencing anxiety, depression, and stress.

FIRST CAUSE OF ACTION

Cruel and Unusual Punishment

(Against Defendants Nagy, Cocuzza, and Griffin)

59. The actions of defendant Nagy in repeatedly using unnecessary physical force with chemical agents against

plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline, but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

60. The actions of defendant Cocuzza in authorizing defendant Nagy in repeatedly using unnecessary physical force with chemical agents against plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

61. The inactions of defendant Griffin who had actual and constructive notice of Nagy's ongoing relentless brutal behavior and propensity to maliciously and sadistically use unnecessary force on inmates in Green Haven without need or provocation, through personal investigations of incidents from reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist into Nagy using excessive force by by chemical agents against plaintiff on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom fostering the conduct and allowing such policy and custom to continue; and grossly negligent with deliberate indifference in the supervision of Nagy, thereby, contributing to and proximately causing the above described

cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

62. Plaintiff Baptiste has repeated and realleged every allegation contained in paragraphs 1 through 62 of this complaint in conjunction with plaintiff's first cause of action.

SECOND CAUSE OF ACTION

Cruel and Unusual Punishment

Deliberate Indifference

(Against Defendants Cocuzza and Griffin)

63. The inaction of Defendant Cocuzza, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation through Cocuzza's investigations of incidents from inmate grievances and reports, was a direct and proximate result of Cocuzza's deliberately permitting a pattern of abuse to develop and persist, to a culmination of Nagy using excessive force by chemical agents against plaintiff on August 3, 2015, and failing to order Nagy to cease using said agents, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom to continue; exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby deliberately

exposing plaintiff to a substantial risk of serious harm, in which Cocuzza was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Cocuzza posed a great danger to plaintiff's health and safety in failing to address this danger, amount to cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

64. The inaction of defendant Griffin, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation, through Griffin's investigations of incidents from inmates reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist to a culmination of Nagy using excessive force by chemical agents against plaintiff, on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom fostering the conduct and allowing such policy and custom to continue; and exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby, deliberately exposing plaintiff to a substantial risk of serious harm, in which Griffin was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Griffin posed a great danger to plaintiff's health and safety in failing to address this danger, amount

to cruel and unusual punishment in violation of the rights guaranteed to the plaintiff by the Eighth Amendment of the United States Constitution.

65. Plaintiff makes the allegations contained in paragraphs 59 through 64 upon information and belief; plaintiff further repeats and realleges every allegation contained in paragraphs 1 through 65 of this complaint in conjunction with plaintiff's second cause of action.

Injuries

The following is a description of the injuries received during the events stated above, and the medical treatment (if any) that was required and/or received: plaintiff's head neck, and back was irritated and in pain; plaintiff has been experiencing shortness of breath, even at the time of filing; for several days after being exposed to the chemical agents, plaintiff's eyes were in pain; and plaintiff has continuously experienced swelling in both ankles, he suffered a swollen right knee, wrist and arm, as well as pain from falling and subsequently being trampled on, after leaving the mess hall.

Although plaintiff was exposed to chemical agents for a prolonged period of time, put under the glaring sun, and not properly decontaminated, he was not seen by anyone concerning his continuous pain, reoccurring swelling or shortness of breath. Due to the side effects I have experienced from the chemical agents, there is a possibility of future medical problems.

After leaving the mess hall, I was stomped, and trampled, over, causing swelling and pain to both my right arm and leg.

I subsequently experienced anxiety, which still rises following the August 3, 2015, incident. Although I have overcome my fear of going to the mess hall, and church, after seeking psychological help, at the sign of a disturbance or response I go into a state of panic. I've felt depressed and stressed to the point of withdrawing from activities I previously enjoyed before the incident and being injured. The possibility that the prolonged exposure to the chemical agents may cause residual effects, causes me to feel depressed and stressed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The claims arose while plaintiff was confined in a correctional facility, namely the Green Haven Correctional Facility. Green Haven Correctional Facility has a grievance procedure for the exhaustion of administrative issues.

Plaintiff realleges and incorporates by reference to his allegations in paragraphs 1 through 65 and states that he has fully exhausted his grievance mechanism on each claim above. The grievance was entitled "Chemical Agents" and given the number GH-80418-15.

DAMAGES

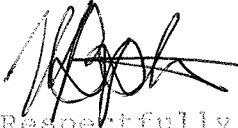
WHEREFORE, plaintiff asserts a violation of Eighth Amendment United States Constitutional rights have been violated. Seeking damages in his favor and monetary damages as follows: for compensatory damages of not less than \$500,000; for punitive damages against individual defendants of not less than \$500,000 each; issue an injunction ordering that defendants Griffin, Cocuzza, Nagy, and their agents, subordinates and employees be prohibited from any reprisal of any kind, as a result of this action being advanced against defendants for violating plaintiff's Eighth Amendment Constitutional rights.

To be evaluated by an outside medical specialist with expertise in treatment and restoration of plaintiff's lungs and nasal passage; together with attorney fees, cost, and disbursements and for such other relief as the Court deem just and equitable.

previous lawsuits

Plaintiff has not filed any other lawsuits in state or federal court dealing with this same facts involved in this action.

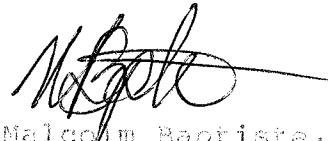
Dated:

 July 30, 2018
Respectfully Submitted

Malcolm Baptiste, DIN 96A4708

VERIFICATION

SIGNED THIS 30 DAY OF July, 2018. I swear to the penalty of perjury the foregoing is true and correct, except as to matters alleged on information and belief, and , as to those, I believe them to be true.



Malcolm Baptiste, DIN

36A4708

Green Haven Corr. Fac.

594 Route 216

Stormville, NY 12582

Executed at Stormville, New York on July 30, 2018.

Grievance Complaint

Grievance No.

Green Haven Correctional Facility

Name: Malcolm Baptiste DMS: 9644708

Date: August 20, 2015

Housing Unit: A-3-308


Program: Unemployed APT

NACF Clerk / ERE

Description of Problem: On Monday, August 3, 2015, during the breakfast meal in the West Mess hall a group of guards broke up a two man fight. After both parties were separated chemical agents were dropped in the area closest to the serving windows. Sometime after the two men were escorted out of the mess hall another round of the chemical agent was dropped in the middle of the mess hall. That was the area in which I was sitting. Subsequent to that some guards began to run out of the mess hall screaming. After watching them run out, men sitting at different tables began to get up and walk out. While leaving the mess hall I tripped to the ground was stepped on and kicked before ~~making~~ making it back to my feet. The following day I requested and was denied emergency sick call. On the morning of Wednesday, Aug. 5, I signed up for block sick call, complained about and showed the nurse my swollen ankles and right elbow and bruise on right knee. I was given Ibuprofen. I asked for pictures

Pg. 2

to be taken and was told that there was no camera. I subsequently returned to block sick call on Fri., Aug. 7, and Tues., Aug. 11, 2015, with the same result each time. On Wed., Aug. 12, I was scheduled to see my assigned provider. At that appointment I explained to him my injuries and how they were sustained. He looked at them and remarked that there was just some swelling. I asked if he would take pictures and put me in for lab work. No pictures were taken.

Grievant Signature: 

Adverse Requested: No

Action Requested: To be compensated for injuries suffered, mental ~~and~~ anguish and start not following protocol.

Response of IGRC:

Curry 88A2854
 Baptiste 96A4708
 Burns 97A6087

Code 50
 6H80418-15

Split, Two Staff agree w/investigation.

Two IGRC. reps recommend that investigation/Memorandum is grossly inaccurate. Note: Investigation did not include a response from any party involved with incident. Officer involved who deployed chemical agent did not follow proper policy, procedure and protocol.

Date Returned to Inmate: 9-3-115 IGRC Members: [Signature]

Chairperson: Phillips Williams

Return within 7 calendar days and check appropriate boxes.*

☐ I disagree with IGRC response and wish to appeal to Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent.

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal.

Signed: _____
 Grievant

 Date

 Grievance Clerk's Receipt


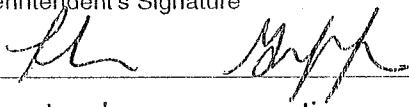
 Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent: _____
 Date

Grievance forwarded to the Superintendent for action: _____
 Date

Grievant ~~GURRY~~Number ~~88A2054~~Cell ~~A2-217~~

 Corrections and Community Supervision Inmate Grievance Program	Grievance Number 80418-15	Date Filed 8/12/2015
	Title CHEMICAL AGENTS (consolidation)	Code 50
	Superintendent's Signature 	Date 9-5-15

This is a consolidation of 51 grievants who are requesting restoration of their property, medical care, and proper use of force training for staff related to incident in the West Messhall on 8/3/15.

Loss or damage of property is addressed through the Inmate Property Claim mechanism in accordance with Directive #2733. The grievant's who lost State issued items can request replacements through the State Shop.

All inmates who were exposed were afforded the opportunity to be seen by Medical in their respective housing units for the incident that occurred on August 3, 2015. The grievant's can put in for sick call if additional medical attention is required.

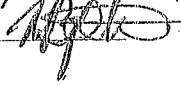
All security staff receive Use Of Force Training annually.

*** Grievance is affirmed only to the extent noted above.

Appeal Statement

If you wish to refer the above decision of the Superintendent please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.


My issue was that the fight between two men was already broken up when the chemical was dropped the first time and things never reached or looked as though it would reach a level that chemicals needed to be released 3 times. There was no order evacuating the mess hall, which led to me getting injured & medical took no pictures or any injuries and only gave me ibuprofen.

Grievant's Signature  Date 9/10/15

Grievance Clerk's Signature

Date

Baptiste 96A4708

 NEW YORK STATE Corrections and Community Supervision ANDREW M. CUOMO Governor ANTHONY J. ANNUCCI Acting Commissioner	Grievance Number GH-80418-15	Desig./Code I/50	Date Filed 8/12/15
	Associated Cases		Hearing Date 11/18/15
	Facility Green Haven Correctional Facility		
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Chemical Agents	

GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that this matter has been appropriately referred to the Office of Special Investigations (OSI), and that any corrective action will be taken, if deemed warranted.

CORC asserts that all of the grievants have access to medical care via sick call. In addition, clothing and linen issues should be addressed to the State Shop and personal property via the claims mechanism. Questions regarding the investigation should be directed to OSI.

JNA/mm

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

MALCOLM BAPTISTE,
Plaintiff,

-v-

Case No. _____
Hon. _____

THOMAS GRIFFIN, Superintendent of
Green Haven Correctional Facility;
Sergeant Cocuzza, Sergeant;
MICHAEL T. Nagy, #11093, Correctional
Officer,
Defendants.

COMPLAINT UNDER
THE CIVIL RIGHTS
ACT, 42 U.S.C. §1983

Jury Trial
Requested

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Introduction

This is a civil rights action filed by Malcolm Baptiste, a state prisoner, for damages and injunctive relief under 42 U.S.C. §1983, alleging excessive use of force and deliberate indifference in violation of the Eighth Amendment of the United States Constitution.

Jurisdiction

1. The Court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §§1331(1) and 1343.

Parties

2. The plaintiff is Malcolm Baptiste, DIN 96A4708, is and was, at all times relevant hereto, a prisoner in the custody of the State of New York Department of Corrections and Community Supervision ("DOCCS"). At all times relevant to the events hereto, he was incarcerated at the Green Haven Correctional Facility, which is located in Stormville, New

York.

3. Defendant No. 1 is Thomas Griffin: he was the Superintendent of Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

4. Defendant No. 2 is Sergeant Cocuzza: he was a Sergeant at the Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

5. Defendant No. 3 is Michael T. Nagy: he is a Correctional Officer at the Green Haven Correctional Facility, located at 594 Route 216, Stormville, New York 12582.

Statement of Claim

6. The events that give rise to the within claims occurred in the Green Haven Correctional Facility. The events took place in the Green Haven West Mess Hall and C & D yard. The approximate date and time of the events are as follows: August 3, 2015, during the morning breakfast "chow" run.

Facts

7. On or about August 3, 2015, Baptiste ("Plaintiff"), along with approximately fifty (50) other inmates were escorted by two correctional officers to Green Haven's West Mess Hall for breakfast.

8. Plaintiff entered the mess hall, was served a tray of food from counter number "one" before sitting at a table. At no time did plaintiff pose any threat to the safety or security of the facility, or anyone in it.

9. While plaintiff ate his breakfast a two (2) man fight began in the West Mess Hall. Within moments several prison guards responded to the situation and separated the two prisoners and had the on the floor face-down.

10. Without any resistance both individuals were handcuffed behind their respective backs while numerous guards stood in the immediate area.

11. Prison guard Nagy occupied the Chemical Agent Booth in the West Mess Hall on the morning of August 3, 2015.

12. At about the time one of the restrained men was being escorted out of the mess hall prison guard Nagy released the w of chemical agents closest to the serving line, without any provocation, subjecting close to four hundred (400) people to an array of respiratory reactions.

13. The guards with the other restrained prisoner hurriedly brought him to his feet and escorted him out of the mess hall.

14. There was no serious incident, nor was there threat to human life, that would have justified the release of the chemical agent.

15. The fog from the chemical agent drifted around the mess hall. Being exposed to the chemical agent resulted in the plaintiff coughing uncontrollably, his eyes tearing profusely, and vomiting at the table.

16. Groups of men on the opposite side of the mess hall were escorted out by guards posted on that side of the mess

hall.

16. Plaintiff was exposed to more chemical agents when yet another round was unleashed approximately a row of tables away from where plaintiff was seated. Prior to and at the time of that release, no individual's life or safety was in danger.

17. Plaintiff's lungs and eyes began to burn as a result of the fog from the agent.

18. Subsequent to the second round of canisters being dropped, several prison guard panicked and ran out of the mess hall, leaving their post vacant, and less prison personnel in the West Mess Hall with plaintiff and all other remaining prisoners.

19. As a result of the panicking of the guards and abandoning of their post, several prisoners rose from their seats and headed for the exit, some with the collars of their shirts covering their mouths and noses.

20. Plaintiff used the collar of his T-shirt to cover his mouth and nose, hoping it would help, but to no avail. Plaintiff's eyes, nose, throat and lungs all burned, while his nose continuously drained mucus.

21. With each passing moment the fog grew thicker and visibility became poor, seeing other people, tables and chairs was difficult.

22. Due to the lack of prison guards at their assigned post, and the failure of those present to direct the

prisoners, more prisoners began to get up from their seats and leave the mess hall.

23. Due to the reaction plaintiff was experiencing, along with the inaction of the officials present, plaintiff rose from his seat and proceeded out of the mess hall.

24. As plaintiff reached the vicinity of the exit, yet another row of chemical agents were unleashed in the area of the entrance/exit.

25. Some of the chemical agent released in that third round struck plaintiff on the head, neck and back as he exited the mess hall.

26. After exiting the mess hall plaintiff tripped over what he believed to be someone's limb, and fell to the ground striking his right knee, wrist and elbow. Before being able to get back to his feet plaintiff suffered from being trampled on by other people leaving the mess hall.

27. Upon getting to his feet plaintiff began to walk away from the mess hall. No staff was present in the immediate area at the time. However, plaintiff saw that all control gates were locked with the exception of the one directly ahead of him. Beyond that the door leading to C & D yard was open, making that the only place to go.

28. Due to the failure of prison officials to maintain order and give direction, plaintiff and others exited into the yard. The morning of August 3, 2015, was a hot sunny day. As a result of being under the sun, the chemical agent on

plaintiff's skin began to burn uncontrollably.

29. After entering the yard plaintiff was instructed by a guard to walk to the right all the way to D-Block wall. Once plaintiff reached said wall he was told to "file in line with the rest of your buddies, and get your hands high and flat [on the wall], take three steps back and stay there or you won't make it out of this yard in one piece."

30. Standing in said position left plaintiff's feet approximately five (5) feet from the wall, with his heels barely touching the ground.

31. The longer plaintiff stood under the sun the more his head, neck, eyes, lungs and back burned.

32. Plaintiff alerted the guards in the vicinity of the burning sensations he was experiencing and that his arms and shoulders were hurting, as his arms visibly shook. A guard replied that plaintiff "wasn't alone."

33. About 15 minutes later plaintiff feared he was going to fall from standing in said manner and explained this, and the fact that he needed to go to the bathroom to the guards. The reply he was met with was "if [he didn't] keep his pie-hole (mouth) shut falling and going to the bathroom will be the least of your worries."

34. Plaintiff was forced to stay in the sun with his hands high and feet far behind him for approximately one (1) hour, before being told he could move.

35. When instructed he could take his hands off the wall,

and turn around, plaintiff again asked if he could use the bathroom. One of the guards responded "keep your mouth shut and follow orders."

36. The plaintiff was told to walk in single file to the middle of the yard. Upon arriving there plaintiff and the others on the line were told to wait there.

37. After standing in the middle of the yard under the glaring sun for approximately 10 minutes, plaintiff was told to move forward to B & C corridor wall, which was on the opposite side of the yard from which he came.

38. Once reaching that area plaintiff was instructed to face the wall, place his hands and flat on the wall until instructed otherwise.

39. A few minutes later a guard working her way down the line of men told plaintiff to slowly take off his right shoe and sock with his left hand and then place his hand back on the wall. Plaintiff was then instructed to remove his other shoe and sock with his opposite hand and then place it back on the wall. Plaintiff was left standing on the pavement bare-foot.

40. Subsequent to coming out of his footwear plaintiff was instructed to remove his belt and pants, and then his shirt and undershirt. Once his garments were removed plaintiff was instructed to place his hands back on the wall and forced

to stand in that position, in only his under shorts.

41. Plaintiff was forced to remain in said position for approximately 10 minutes . He was then told to pick-up his shoes and turn to his left.

42. Plaintiff was told to walk single file to the shower area.

43. Plaintiff was told to give his shoes to a female officer who was just outside of the shower area, before being told to get under the water. Plaintiff was allowed to rinse off for approximately 2 minutes without any cleansing solution before being forced to exit the shower, without a towel.

44. Upon exiting the shower plaintiff was given back his shoes. Plaintiff was forced to walk across the yard, which had both men and women observing his movements, in his now wet transparent underwear and shoes, to D-Block corridor wall, which was in the complete opposite direction.

45. Upon arriving at the designated place, plaintiff was told where to "file in" and place his hands high and flat on the wall.

46. Approximately 5 minutes later plaintiff was told to walk up to the wall without removing his hands, until his toes touched the wall.

47. Upon doing so plaintiff was told to remove his hands

and turn to his left and walk to the yard door. Upon reaching the yard door plaintiff was further instructed to walk through and into the A & B yard.

48. When plaintiff reached the A & B yard he was told to return to his housing unit.

49. Upon entering the housing unit plaintiff was instructed to proceed to his cell and lock on.

50. Sometime later a nurse walked the company with a prison guard. Once the nurse reached the vicinity of the cell plaintiff was in, plaintiff explained that he tripped fell and was trampled over upon leaving the mess hall. As a result plaintiff was experiencing pain in his right knee, wrist and elbow arm, and back.

51. The nurse told plaintiff he look 'okay,' continued walking, and said "go to sick call."

52. During the evening of August 3, 2015, upon being allowed to shower, plaintiff's eyes began to burn again, as he stood under the water. The burning sensation lasted about 3-5 minutes.

53. Although plaintiff signed up for sick call that night, he was not provided the opportunity to be seen by any medical personnel. He was simply told to sign up again.

54. Plaintiff reapplied for sick call and was seen by a nurse on August 5, 2015. At that time plaintiff showed the nurse the injuries he suffered, including a swollen wrist, knees, ankle, and elbow. As a result, plaintiff was given

Ibuprofen and instructed to go back to his cell.

55. Plaintiff asked for photographs to be taken of the injuries. The nurse replied that there was no film. Plaintiff has subsequently gone to sick call and the clinic for his physical injuries several times.

56. Plaintiff has also had a case file opened with the mental health department at Green Haven Correctional Facility as a result of the mental trauma suffered in the mess hall and C & D yard. Plaintiff was seen by a therapist for about one (1) year.

57. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff suffered the following injuries: burning sensation on the head neck, and back, and in the lungs and nose; (2) facial burning; (3) shortness of breath; (4) excruciating pain in both eyes from all from exposure to the chemical agent; and (5) swelling of the right knee, wrist and arm, and of both ankles after falling and being trampled on after leaving the mess hall.

58. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff has been experiencing anxiety, depression, and stress.

FIRST CAUSE OF ACTION

Cruel and Unusual Punishment

(Against Defendants Nagy, Cocuzza, and Griffin)

59. The actions of defendant Nagy in repeatedly using unnecessary physical force with chemical agents against

plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline, but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

60. The actions of defendant Cocuzza in authorizing defendant Nagy in repeatedly using unnecessary physical force with chemical agents against plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

61. The inactions of defendant Griffin who had actual and constructive notice of Nagy's ongoing relentless brutal behavior and propensity to maliciously and sadistically use unnecessary force on inmates in Green Haven without need or provocation, through personal investigations of incidents from reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist into Nagy using excessive force by by chemical agents against plaintiff on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom fostering the conduct and allowing such policy and custom to continue; and grossly negligent with deliberate indifference in the supervision of Nagy, thereby, contributing to and proximately causing the above described

cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

62. Plaintiff Baptiste has repeated and realleged every allegation contained in paragraphs 1 through 62 of this complaint in conjunction with plaintiff's first cause of action.

SECOND CAUSE OF ACTION

Cruel and Unusual Punishment

Deliberate Indifference

(Against Defendants Cocuzza and Griffin)

63. The inaction of Defendant Cocozza, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation through Cocuzza's investigations of incidents from inmate grievances and reports, was a direct and proximate result of Cocuzza's deliberately permitting a pattern of abuse to develop and persist, to a culmination of Nagy using excessive force by chemical agents against plaintiff on August 3, 2015, and failing to order Nagy to cease using said agents, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom to continue; exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby deliberately

exposing plaintiff to a substantial risk of serious harm, in which Cocuzza was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Cocuzza posed a great danger to plaintiff's health and safety in failing to address this danger, amount to cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

64. The inaction of defendant Griffin, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation, through Griffin's investigations of incidents from inmates reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist to a culmination of Nagy using excessive force by chemical agents against plaintiff, on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom fostering the conduct and allowing such policy and custom to continue; and exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby, deliberately exposing plaintiff to a substantial risk of serious harm, in which Griffin was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Griffin posed a great danger to plaintiff's health and safety in failing to address this danger, amount

to cruel and unusual punishment in violation of the rights guaranteed to the plaintiff by the Eighth Amendment of the United States Constitution.

65. Plaintiff makes the allegations contained in paragraphs 59 through 64 upon information and belief; plaintiff further repeats and reaffirms every allegation contained in paragraphs 1 through 58 of this complaint in conjunction with plaintiff's second cause of action.

Injuries

The following is a description of the injuries received during the events stated above, and the medical treatment (if any) that was required and/or received: plaintiff's head, neck, and back was irritated and in pain; plaintiff has been experiencing shortness of breath, even at the time of filing; for several days after being exposed to the chemical agents, plaintiff's eyes were in pain; and plaintiff has continuously experienced swelling in both ankles, he suffered a swollen right knee, wrist and arm, as well as pain from falling and subsequently being tripped on, after leaving the mess hall.

Although plaintiff was exposed to chemical agents for a prolonged period of time, not under the glaring sun, and not properly decontaminated, he was not seen by anyone concerning his continuous pain, reoccurring swelling or shortness of breath. Due to the side effects I have experienced from the chemical agents, there is a possibility of future medical problems.

After leaving the mess hall, I was stomped, and trampled, over, causing swelling and pain to both my right arm and leg.

I subsequently experienced anxiety, which still rises following the August 3, 2015, incident. Although I have overcome my fear of going to the mess hall, and church, after seeking psychological help, at the sign of a disturbance or response I go into a state of panic. I've felt depressed and stressed to the point of withdrawing from activities I previously enjoyed before the incident and being injured. The possibility that the prolonged exposure to the chemical agents may cause residual effects, causes me to feel depressed and stressed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The claims arose while plaintiff was confined in a correctional facility, namely the Green Haven Correctional Facility. Green Haven Correctional Facility has a grievance procedure for the exhaustion of administrative issues.

Plaintiff realleges and incorporates by reference to his allegations in paragraphs 1 through 65 and states that he has fully exhausted his grievance mechanism on each claim above. The grievance was entitled "Chemical Agents" and given the number GH-80418-15.

DAMAGES


WHEREFORE, plaintiff asserts a violation of Eighth Amendment United States Constitutional rights have been violated. Seeking damages in his favor and monetary damages as follows: for compensatory damages of not less than \$500,000; for punitive damages against individual defendants of not less than \$500,000 each; issue an injunction ordering that defendants Griffin, Cocuzza, Nagy, and their agents, subordinates and employees be prohibited from any reprisal of any kind, as a result of this action being advanced against defendants for violating plaintiff's Eighth Amendment Constitutional rights.

To be evaluated by an outside medical specialist with expertise in treatment and restoration of plaintiff's lungs and nasal passage; together with attorney fees, cost, and disbursements and for such other relief as the Court deem just and equitable.

previous lawsuits

Plaintiff has not filed any other lawsuits in state or federal court dealing with this same facts involved in this action.

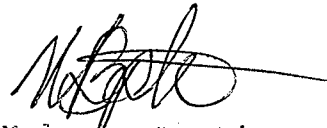
Dated:

 July 30, 2018
Respectfully Submitted

Malcolm Baptiste, DIN 96A4708

VERIFICATION

SIGNED THIS 30 DAY OF July, 2018. I swear to the penalty of perjury the foregoing is true and correct, except as to matters alleged on information and belief, and , as to those, I believe them to be true.



Malcolm Baptiste, DIN

36A4708

Green Haven Corr. Fac.

594 Route 216

Stormville, NY 12582

Executed at Stormville, New York on July 30, 2018.

Grievance Complaint

Grievance No.

Green Haven Correctional Facility

Name: Malcolm Baptiste DIN: 9644708

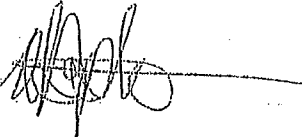
Date: August 20, 2015

Housing Unit: A-3-308

Program: Unemployed AM/FM
NACP Clerk / ERE

Description of Problem: On Monday, August 3, 2015, during the breakfast meal in the West Messhall a group of guards broke up a two man fight. After both parties were separated chemical agents were dropped in the area closest to the serving windows. Sometime after the two men were escorted out of the messhall another round of the chemical agent was dropped in the middle of the messhall. That was the area in which I was sitting. Subsequent to that some guards began to run out of the messhall screaming. After watching them run out, men sitting at different tables began to get up and walk out. While leaving the messhall I tripped to the ground. I was stepped on and kicked before ~~making~~ making it back to my feet. The following day I requested and was denied emergency sick call. On the morning of Wednesday, Aug. 5, I signed up for block sick call, complained about and showed the nurse my swollen ankles and right elbow and bruised right knee. I was given Ibuprofen. I asked for pictures

to be taken and was told that there was no camera ^{Fig. 2}
I subsequently returned to block sick call on
Fri., Aug. 7, and Tues., Aug. 11, 2015, with the same
result each time. On Wed., Aug. 12, I was scheduled
to see my assigned provider. At that appointment I
explained to him my injuries and how they were sustained.
He looked at them and remarked that there was just
some swelling. I asked if he would take pictures
and put me in for lab work. No pictures were taken.

Grievant Signature: 

Action Requested: No

Action Requested: To be compensated for injuries
suffered, mental anguish and staff not following
protocol.

Response of IGRC:

Curry 88A2854
 Baptiste 96A4708
 Burns 97A6087

GLE 50
 6H80418-15

Split, Two Staff agree w/investigation.

Two IGRC. reps recommend that investigation/Memorandum is grossly inaccurate. Note: Investigation did not include a response from any party involved with incident. Officer involved who deployed chemical agent did not follow proper policy, procedure and protocol.

Date Returned to Inmate: 9-3-115

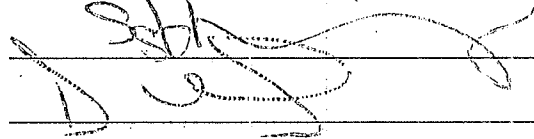
IGRC Members:

Chairperson:

Phillips



Williams



Return within 7 calendar days and check appropriate boxes.*

☐ I disagree with IGRC response and wish to appeal to Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent.

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal.

Signed:

Grievant

Date

Grievance Clerk's Receipt

Date

To be completed by Grievance Clerk.


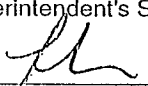
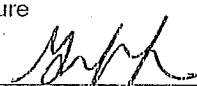
Grievance Appealed to the Superintendent:

Date

Grievance forwarded to the Superintendent for action:

Date

Grievant GARRYNumber 88A2854Cell A2-217

 Corrections and Community Supervision Inmate Grievance Program	Grievance Number 80418-15	Date Filed 8/12/2015
	Title CHEMICAL AGENTS (consolidation)	Code 50
	Superintendent's Signature  	Date 9-5-15

This is a consolidation of 51 grievants who are requesting restoration of their property, medical care, and proper use of force training for staff related to incident in the West Messhall on 8/3/15.

Loss or damage of property is addressed through the Inmate Property Claim mechanism in accordance with Directive #2733. The grievant's who lost State issued items can request replacements through the State Shop.

All inmates who were exposed were afforded the opportunity to be seen by Medical in their respective housing units for the incident that occurred on August 3, 2015. The grievant's can put in for sick call if additional medical attention is required.

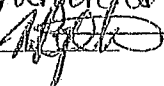
All security staff receive Use Of Force Training annually.

*** Grievance is affirmed only to the extent noted above.

Appeal Statement

If you wish to refer the above decision of the Superintendent please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.


My issue was that the fight between two men was already broken up when the chemical was dropped the first time and things never reached or looked as though it would reach a level that chemicals needed to be released 3 times. There was no order evacuating the mess hall, which led to me getting injured & medical took no pictures of my injuries and only gave me ibuprofen.

Grievant's Signature  Date 9/10/15

Grievance Clerk's Signature

Date

Baptiste 96A4708

 NEW YORK STATE Corrections and Community Supervision ANDREW M. CUOMO Governor ANTHONY J. ANNUCCI Acting Commissioner	Grievance Number GH-80418-15	Desig./Code I/50	Date Filed 8/12/15
	Associated Cases	Hearing Date 11/18/15	
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Facility Green Haven Correctional Facility		
	Title of Grievance Chemical Agents		

GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that this matter has been appropriately referred to the Office of Special Investigations (OSI), and that any corrective action will be taken, if deemed warranted.

CORC asserts that all of the grievants have access to medical care via sick call. In addition, clothing and linen issues should be addressed to the State Shop and personal property via the claims mechanism. Questions regarding the investigation should be directed to OSI.

JNA/mm

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALCOLM BAPTISTE,

Plaintiff,

-v-

Case No. _____
Hon. _____

THOMAS GRIFFIN, Superintendent of
Green Haven Correctional Facility;
Sergeant Cocuzza, Sergeant;
MICHAEL T. Nagy, #11093, Correctional
Officer,

Defendants.
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THE CIVIL RIGHTS
ACT, 42 U.S.C. §1983

Jury Trial
Requested

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1. The Court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §§1331(1) and 1343.

Parties

2. The plaintiff is Malcolm Baptiste, DIN 96A4708, is and was, at all times relevant hereto, a prisoner in the custody of the State of New York Department of Corrections and Community Supervision ("DOCCS"). At all times relevant to the events hereto, he was incarcerated at the Green Haven Correctional Facility, which is located in Stormville, New

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Statement of Claim

6. The events that give rise to the within claims occurred in the Green Haven Correctional Facility. The events took place in the Green Haven West Mess Hall and C & D yard. The approximate date and time of the events are as follows: August 3, 2015, during the morning breakfast "chow" run.

Facts

7. On or about August 3, 2015, Baptiste ("Plaintiff"), along with approximately fifty (50) other inmates were escorted by two correctional officers to Green Haven's West Mess Hall for breakfast.

8. Plaintiff entered the mess hall, was served a tray of food from counter number "one" before sitting at a table. At no time did plaintiff pose any threat to the safety or security of the facility, or anyone in it.

9. While plaintiff ate his breakfast a two (2) man fight began in the West Mess Hall. Within moments several prison guards responded to the situation and separated the two prisoners and had them on the floor face-down.

10. Without any resistance both individuals were handcuffed behind their respective backs while numerous guards stood in the immediate area.

11. Prison guard Nagy occupied the Chemical Agent Booth in the West Mess Hall on the morning of August 3, 2015.

12. At about the time one of the restrained men was being escorted out of the mess hall prison guard Nagy released the w of chemical agents closest to the serving line, without any provocation, subjecting close to four hundred (400) people to an array of respiratory reactions.

13. The guards with the other restrained prisoner hurriedly brought him to his feet and escorted him out of the mess hall.

14. There was no serious incident, nor was there threat to human life, that would have justified the release of the chemical agent.

15. The fog from the chemical agent drifted around the mess hall. Being exposed to the chemical agent resulted in the plaintiff coughing uncontrollably, his eyes tearing profusely, and vomiting at the table.

16. Groups of men on the opposite side of the mess hall were escorted out by guards posted on that side of the mess

hall.

16. Plaintiff was exposed to more chemical agents when yet another round was unleashed approximately a row of tables away from where plaintiff was seated. Prior to and at the time of that release, no individual's life or safety was in danger.

17. Plaintiff's lungs and eyes began to burn as a result of the fog from the agent.

18. Subsequent to the second round of canisters being dropped, several prison guard panicked and ran out of the mess hall, leaving their post vacant, and less prison personnel in the West Mess Hall with plaintiff and all other remaining prisoners.

19. As a result of the panicking of the guards and abandoning of their post, several prisoners rose from their seats and headed for the exit, some with the collars of their shirts covering their mouths and noses.

20. Plaintiff used the collar of his T-shirt to cover his mouth and nose, hoping it would help, but to no avail. Plaintiff's eyes, nose, throat and lungs all burned, while his nose continuously drained mucus.

21. With each passing moment the fog grew thicker and visibility became poor, seeing other people, tables and chairs was difficult.

22. Due to the lack of prison guards at their assigned post, and the failure of those present to direct the

prisoners, more prisoners began to get up from their seats and leave the mess hall.

23. Due to the reaction plaintiff was experiencing, along with the inaction of the officials present, plaintiff rose from his seat and proceeded out of the mess hall.

24. As plaintiff reached the vicinity of the exit, yet another row of chemical agents were unleashed in the area of the entrance/exit.

25. Some of the chemical agent released in that third round struck plaintiff on the head, neck and back as he exited the mess hall.

26. After exiting the mess hall plaintiff tripped over what he believed to be someone's limb, and fell to the ground striking his right knee, wrist and elbow. Before being able to get back to his feet plaintiff suffered from being trampled on by other people leaving the mess hall.

27. Upon getting to his feet plaintiff began to walk away from the mess hall. No staff was present in the immediate area at the time. However, plaintiff saw that all control gates were locked with the exception of the one directly ahead of him. Beyond that the door leading to C & D yard was open, making that the only place to go.

28. Due to the failure of prison officials to maintain order and give direction, plaintiff and others exited into the yard. The morning of August 3, 2015, was a hot sunny day. As a result of being under the sun, the chemical agent on

plaintiff's skin began to burn uncontrollably.

29. After entering the yard plaintiff was instructed by a guard to walk to the right all the way to D-Block wall. Once plaintiff reached said wall he was told to "file in line with the rest of your buddies, and get your hands high and flat [on the wall], take three steps back and stay there or you won't make it out of this yard in one piece."

30. Standing in said position left plaintiff's feet approximately five (5) feet from the wall, with his heels barely touching the ground.

31. The longer plaintiff stood under the sun the more his head, neck, eyes, lungs and back burned.

32. Plaintiff alerted the guards in the vicinity of the burning sensations he was experiencing and that his arms and shoulders were hurting, as his arms visibly shook. A guard replied that plaintiff "wasn't alone."

33. About 15 minutes later plaintiff feared he was going to fall from standing in said manner and explained this, and the fact that he needed to go to the bathroom to the guards. The reply he was met with was "if [he didn't] keep his pie-hole (mouth) shut falling and going to the bathroom will be the least of your worries."

34. Plaintiff was forced to stay in the sun with his hands high and feet far behind him for approximately one (1) hour, before being told he could move.

35. When instructed he could take his hands off the wall,

and turn around, plaintiff again asked if he could use the bathroom. One of the guards responded "keep your mouth shut and follow orders."

36. The plaintiff was told to walk in single file to the middle of the yard. Upon arriving there plaintiff and the others on the line were told to wait there.

37. After standing in the middle of the yard under the glaring sun for approximately 10 minutes, plaintiff was told to move forward to B & C corridor wall, which was on the opposite side of the yard from which he came.

38. Once reaching that area plaintiff was instructed to face the wall, place his hands and flat on the wall until instructed otherwise.

39. A few minutes later a guard working her way down the line of men told plaintiff to slowly take off his right shoe and sock with his left hand and then place his hand back on the wall. Plaintiff was then instructed to remove his other shoe and sock with his opposite hand and then place it back on the wall. Plaintiff was left standing on the pavement barefoot.

40. Subsequent to coming out of his footwear plaintiff was instructed to remove his belt and pants, and then his shirt and undershirt. Once his garments were removed plaintiff was instructed to place his hands back on the wall and forced

to stand in that position, in only his under shorts.

41. Plaintiff was forced to remain in said position for approximately 10 minutes . He was then told to pick-up his shoes and turn to his left.

42. Plaintiff was told to walk single file to the shower area.

43. Plaintiff was told to give his shoes to a female officer who was just outside of the shower area, before being told to get under the water. Plaintiff was allowed to rinse off for approximately 2 minutes without any cleansing solution before being forced to exit the shower, without a towel.

44. Upon exiting the shower plaintiff was given back his shoes. Plaintiff was forced to walk across the yard, which had both men and women observing his movements, in his now wet transparent underwear and shoes, to D-Block corridor wall, which was in the complete opposite direction.

45. Upon arriving at the designated place, plaintiff was told where to "file in" and place his hands high and flat on the wall.

46. Approximately 5 minutes later plaintiff was told to walk up to the wall without removing his hands, until his toes touched the wall.

47. Upon doing so plaintiff was told to remove his hands

and turn to his left and walk to the yard door. Upon reaching the yard door plaintiff was further instructed to walk through and into the A & B yard.

48. When plaintiff reached the A & B yard he was told to return to his housing unit.

49. Upon entering the housing unit plaintiff was instructed to proceed to his cell and lock on.

50. Sometime later a nurse walked the company with a prison guard. Once the nurse reached the vicinity of the cell plaintiff was in, plaintiff explained that he tripped fell and was trampled over upon leaving the mess hall. As a result plaintiff was experiencing pain in his right knee, wrist and elbow arm, and back.

51. The nurse told plaintiff he looked 'okay,' continued walking, and said "go to sick call."

52. During the evening of August 3, 2015, upon being allowed to shower, plaintiff's eyes began to burn again, as he stood under the water. The burning sensation lasted about 3-5 minutes.

53. Although plaintiff signed up for sick call that night, he was not provided the opportunity to be seen by any medical personnel. He was simply told to sign up again.

54. Plaintiff reapplied for sick call and was seen by a nurse on August 5, 2015. At that time plaintiff showed the nurse the injuries he suffered, including a swollen wrist, knees, ankle, and elbow. As a result, plaintiff was given

Ibuprofen and instructed to go back to his cell.

55. Plaintiff asked for photographs to be taken of the injuries. The nurse replied that there was no film. Plaintiff has subsequently gone to sick call and the clinic for his physical injuries several times.

56. Plaintiff has also had a case file opened with the mental health department at Green Haven Correctional Facility as a result of the mental trauma suffered in the mess hall and C & D yard. Plaintiff was seen by a therapist for about one (1) year.

57. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff suffered the following injuries: burning sensation on the head neck, and back, and in the lungs and nose; (2) facial burning; (3) shortness of breath; (4) excruciating pain in both eyes from all from exposure to the chemical agent; and (5) swelling of the right knee, wrist and arm, and of both ankles after falling and being trampled on after leaving the mess hall.

58. As a direct and proximate result of the acts and omissions of defendants Nagy, Cocuzza, and Griffin, plaintiff has been experiencing anxiety, depression, and stress.

FIRST CAUSE OF ACTION

Cruel and Unusual Punishment

(Against Defendants Nagy, Cocuzza, and Griffin)

59. The actions of defendant Nagy in repeatedly using unnecessary physical force with chemical agents against

plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline, but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

60. The actions of defendant Cocuzza in authorizing defendant Nagy in repeatedly using unnecessary physical force with chemical agents against plaintiff, on August 3, 2015, was not a good faith-effort to maintain or restore discipline but was rather used maliciously and sadistically to harm plaintiff, amounting to cruel and unusual punishment in violation of plaintiff's Eighth Amendment of the United States Constitution.

61. The inaction of defendant Griffin who had actual and constructive notice of Nagy's ongoing relentless brutal behavior and propensity to maliciously and sadistically use unnecessary force on inmates in Green Haven without need or provocation, through personal investigations of incidents from reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist into Nagy using excessive force by by chemical agents against plaintiff on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action created a policy and custom fostering the conduct and allowing such policy and custom to continue; and grossly negligent with deliberate indifference in the supervision of Nagy, thereby, contributing to and proximately causing the above described

cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

62. Plaintiff Baptiste has repeated and realleged every allegation contained in paragraphs 1 through 62 of this complaint in conjunction with plaintiff's first cause of action.

SECOND CAUSE OF ACTION

Cruel and Unusual Punishment

Deliberate Indifference

(Against Defendants Cocuzza and Griffin)

63. The inaction of Defendant Cocuzza, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation through Cocuzza's investigations of incidents from inmate grievances and reports, was a direct and proximate result of Cocuzza's deliberately permitting a pattern of abuse to develop and persist, to a culmination of Nagy using excessive force by chemical agents against plaintiff on August 3, 2015, and failing to order Nagy to cease using said agents, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom to continue; exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby deliberately

exposing plaintiff to a substantial risk of serious harm, in which Cocuzza was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Cocuzza posed a great danger to plaintiff's health and safety in failing to address this danger, amount to cruel and unusual punishment in violation of the rights guaranteed to plaintiff by the Eighth Amendment of the United States Constitution.

64. The inaction of defendant Griffin, who had actual and constructive notice of Nagy's ongoing relentless brutal behavior, and propensity to maliciously and sadistically use unnecessary force against prisoners without need or provocation, through Griffin's investigations of incidents from inmates reports and appeals, was a direct and proximate result of Griffin deliberately permitting a pattern of abuse to develop and persist to a culmination of Nagy using excessive force by chemical agents against plaintiff, on August 3, 2015, demonstrating gross negligence and deliberate indifference by failing to take corrective action; created a policy and custom to continue; and exhibited gross negligence with deliberate indifference in the supervision of Nagy, thereby, deliberately exposing plaintiff to a substantial risk of serious harm, in which Griffin was keenly aware of Nagy's past brutal behavior from which the inference could be drawn that a substantial risk existed to plaintiff's health and safety, the inactions and deliberate indifference of Griffin posed a great danger to plaintiff's health and safety in failing to address this danger, amount

to cruel and unusual punishment in violation of the rights guaranteed to the plaintiff by the Eighth Amendment of the United States Constitution.

65. Plaintiff makes the allegations contained in paragraphs 59 through 64 upon information and belief; plaintiff further repeats and realleges every allegation contained in paragraphs 1 through 65 of this complaint in conjunction with plaintiff's second cause of action.

Injuries

The following is a description of the injuries received during the events stated above, and the medical treatment (if any) that was required and/or received; plaintiff's head, neck, and back was irritated and in pain; plaintiff has been experiencing shortness of breath, even at the time of filing; for several days after being exposed to the chemical agents, plaintiff's eyes were in pain; and plaintiff has continuously experienced swelling in both ankles, he suffered a swollen right knee, wrist and arm, as well as pain from falling and subsequently being trampled on, after leaving the mess hall.

Although plaintiff was exposed to chemical agents for a prolonged period of time, just under the glaring sun, and not properly decontaminated, he was not seen by anyone concerning his continuous pain, recurring swelling or shortness of breath. Due to the side effects I have experienced from the chemical agents, there is a possibility of future medical problems.

After leaving the mess hall, I was stomped, and trampled, over, causing swelling and pain to both my right arm and leg.

I subsequently experienced anxiety, which still rises following the August 3, 2015, incident. Although I have overcome my fear of going to the mess hall, and church, after seeking psychological help, at the sign of a disturbance or response I go into a state of panic. I've felt depressed and stressed to the point of withdrawing from activities I previously enjoyed before the incident and being injured. The possibility that the prolonged exposure to the chemical agents may cause residual effects, causes me to feel depressed and stressed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The claim arose while plaintiff was confined in a correctional facility, namely the Green Haven Correctional Facility. Green Haven Correctional Facility has a grievance procedure for the exhaustion of administrative issues.

Plaintiff realleges and incorporates by reference to his allegations in paragraphs 1 through 65 and states that he has fully exhausted his grievance mechanism on each claim above. The grievance was entitled "Chemical Agents" and given the number GH-80418-15.

PANAGRE

Plaintiff asserts a violation of Eighth Amendment United States Constitutional rights have been violated. Seeking damages in his favor and monetary damages as follows: for compensatory damages of not less than \$500,000; for punitive damages against individual defendants of not less than \$100,000 each; and an injunction ordering that Defendants Griffin, Cocuzza, Vagy, and their agents, subordinates and employees be prohibited from any reprisal of any kind, as a result of this action being advanced against defendants for violating plaintiff's Eighth Amendment Constitutional rights.

To be evaluated by an outside medical specialist with expertise in treatment and restoration of plaintiff's lower back and neck pain. Plaintiff also requests that the court award him reasonable attorney's fees and costs.

Respectfully submitted,

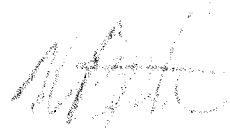
Plaintiff has not filed any other lawsuits in state or federal court dealing with this same fact involved in this action.

Very truly yours,
[Signature] July 31, 2011
Plaintiff

cc: [illegible] NY 10001

VERIFICATION

SIGNED THIS 30 DAY OF July, 2018. I swear to the penalty of perjury the foregoing is true and correct, except as to matters alleged on information and belief, and , as to those, I believe them to be true.



Malcolm Baptiste, DIN

96A4708

Green Haven Corr. Fac.

594 Route 216

Stormville, NY 12582

Executed at Stormville, New York on July 30, 2018.

RECEIVED
SDNY DOCKET UNIT
2018 AUG 13 AM 9:18

Grievance Complaint

Grievance No.

Green Haven Correctional Facility

Name: Malcolm Baptiste DIN: 9644708

Date: August 20, 2018

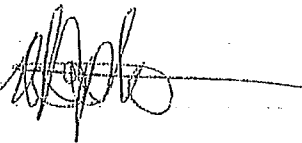
Housing Unit: A-3-308

Program: Unemployed A/M/F
NACP Clerk/Eve

Description of Problem: On Monday, August 3, 2015, during the breakfast meal in the West Messhall a group of guards broke up a two man fight. After both parties were separated chemical agents were dropped in the area closest to the serving windows. Sometime after the two men were escorted out of the Messhall another round of the chemical agent was dropped in the middle of the Messhall. That was the area in which I was sitting. Subsequent to that some guards began to run out of the Messhall screaming. After watching them run out, men sitting at different tables began to get up and walk out. While leaving the Messhall I tripped to the ground, was stepped on and kicked before ~~making~~ it back to my feet. The following day I requested and was denied emergency sick call. On the morning of Wednesday, Aug. 5, I signed up for block sick call, complained about and showed the nurse my swollen ankles and right elbow and bruise on right knee. I was given Ibuprofen. I asked for pictures

Pg. 2

to be taken and was told that there was no concern. I subsequently returned to block sick call on Fri., Aug. 7, and Tues., Aug. 11, 2015, with the same result each time. On Wed., Aug. 12, I was scheduled to see my assigned provider. At that appointment I explained to him my injuries and how they were sustained. He looked at them and remarked that there was just some swelling. I asked if he would take pictures and put me in for lab work. No pictures were taken.

Grievant Signature: 

Adverse Requested: No

Action Requested: To be compensated for injuries suffered, mental anguish and staff not following protocol.

Response of IGRC:

Curry 88A2854
 Baptiste 96A4708
 Burns 97A6087

GLE 50
 6H80418-15

Split, Two Staff agree w/investigation.

Two IGRC. reps recommend that investigation/Memorandum is grossly inaccurate. Note: Investigation did not include a response from any party involved with incident. Officer involved who deployed chemical agent did not follow proper policy, procedure and protocol.

Date Returned to Inmate: 9-3-115

IGRC Members:

Chairperson:

Phillips

[Signature]

Williams

[Signature]

Return within 7 calendar days and check appropriate boxes.*

☐ I disagree with IGRC response and wish to appeal to Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent.

☐ I agree with the IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal.

Signed: _____
 Grievant

 Date

 Grievance Clerk's Receipt


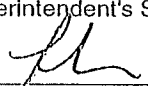

 Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent: _____
 Date

Grievance forwarded to the Superintendent for action: _____
 Date

Grievant ~~GURRY~~Number ~~88A2854~~Cell ~~A2-217~~

 Corrections and Community Supervision Inmate Grievance Program	Grievance Number 80418-15	Date Filed 8/12/2015
	Title CHEMICAL AGENTS (consolidation)	Code 50
	Superintendent's Signature  	Date 9-5-15

This is a consolidation of 51 grievants who are requesting restoration of their property, medical care, and proper use of force training for staff related to incident in the West Messhall on 8/3/15.

Loss or damage of property is addressed through the Inmate Property Claim mechanism in accordance with Directive #2733. The grievant's who lost State issued items can request replacements through the State Shop.

All inmates who were exposed were afforded the opportunity to be seen by Medical in their respective housing units for the incident that occurred on August 3, 2015. The grievant's can put in for sick call if additional medical attention is required.

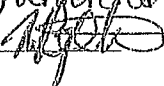
All security staff receive Use Of Force Training annually.

*** Grievance is affirmed only to the extent noted above.

Appeal Statement

If you wish to refer the above decision of the Superintendent please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C.

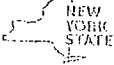
My issue was that the fight between two men was already broken up when the chemical was dropped the first time and things never reached or looked as though it would reach a level that chemicals needed to be released 3 times. There was no order evacuating the mess hall, which led to me getting injured & medical took no pictures or any injuries and only gave me ibuprofen.

Grievant's Signature  Date 9/10/15

Grievance Clerk's Signature

Date

Baptiste 96A4708

 NEW YORK STATE Corrections and Community Supervision ANDREW M. CUOMO Governor ANTHONY J. ANNUNCI Acting Commissioner	Grievance Number GH-80418-15	Desig./Code I/50	Date Filed 8/12/15
	Associated Cases		Hearing Date 11/18/15
	Facility Green Haven Correctional Facility		
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE		Title of Grievance Chemical Agents	

GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

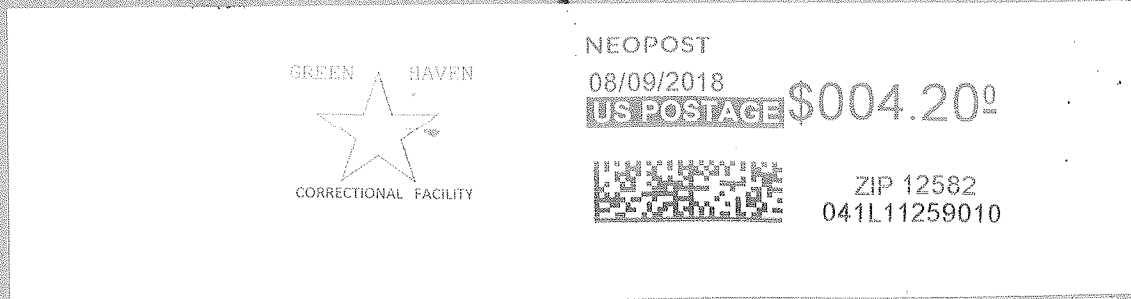
CORC notes that this matter has been appropriately referred to the Office of Special Investigations (OSI), and that any corrective action will be taken, if deemed warranted.

CORC asserts that all of the grievants have access to medical care via sick call. In addition, clothing and linen issues should be addressed to the State Shop and personal property via the claims mechanism. Questions regarding the investigation should be directed to OSI.

JNA/mm

John Baptiste, DIN 9644708
Green Haven Correctional Facility
Box 4000
Menville, NY 12582

USM_{PS}
SDNY



ProSe_{sc}

Court Clerk
United States District Court
Southern District of New York
The Daniel P. Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

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2018 AUG 10 PM 3:27
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